

A.G. Contract No. KR96 1347TRN
ADOT ECS File: JPA 96-83
Project: F-063-1-539
Tracs: 95 YU 234/H3730-01-C *H4/96 o/c*
Section: SR-95, B-8 - Arizona Ave.

INTERGOVERNMENTAL AGREEMENT
LANDSCAPE MAINTENANCE
BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF YUMA

THIS AGREEMENT is entered into 30 SEPTEMBER, 1996
pursuant to Arizona Revised Statutes Sections 11-951 through 11-954, as
amended between the STATE OF ARIZONA, acting by and through its
DEPARTMENT OF TRANSPORTATION (the "State") and the City of Yuma,
acting by and through its Mayor and City Council, (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-108 to enter into this agreement and has by resolution, a copy of which is attached hereto and made part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. It is to the mutual advantage of the State and the City to landscape certain areas within the right of way on State Route 95 at the following location.

From centerline roadway station 37+674.743 at 4th Avenue to centerline roadway station 38+486.261 at Arizona Avenue, a net distance of approximately 812 meters.

NO. <u>21074</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>09/30/96</u>
<u><i>Jane & Lee Hull</i></u> Secretary of State
By <u><i>Vicky Greenwood</i></u>

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State will prepare landscape architectural plans for the landscaping and irrigation project and submit them to the City for concurrence.

2. After City concurrence of the plans, the project will be constructed by the State, using State funds. Upon award of the contract the City shall reimburse the State twenty five percent (25%) of the landscape contract cost.

3. The City shall furnish and install necessary water services from water mains to the designated locations within the right of way at the City's expense.

4. The City shall furnish all water for landscape installation during the construction phase, and all water thereafter necessary to properly maintain the landscape, all at City expense.

5. After construction, the City shall maintain the irrigation system including all testing, adjusting, repairing and operation of the irrigation system, and shall furnish all electrical power necessary to operate the irrigation system.

6. The City hereby agrees to maintain the landscaping. Maintenance shall consist of the care of all landscaping in accordance with accepted horticultural practices, keeping all areas free of weeds, undesirable grasses and litter, applying irrigation water, furnishing and applying sprays and insecticide/herbicide dust to combat diseases and other pests, pruning and replanting as required to maintain the landscaping as it was designed, and established at the completion of the project. The City will not make any major changes, additions or deletions without written approval of the State. All maintenance work shall be conducted in a manner to minimize traffic congestion and interference with through traffic. All traffic control will meet the requirements of the Arizona Department of Transportation's "Uniform Traffic Control Manual."

III. MISCELLANEOUS PROVISIONS

1. This agreement shall become effective upon filing with the Secretary of State.

2. The terms, conditions and provisions of this agreement shall remain in full force and effect for a period of five (5) years from the effective date, unless this Agreement violates any Arizona law, rule or regulation, either now enacted or which may be enacted in the future. This agreement will be automatically renewed for successive periods of five (5) years unless either party shall give notice in writing to the other not less than one (1) month nor more than three (3) months prior to the initial or renewed expiration date. Further, this agreement may be terminated by either party at any time upon sixty (60) days written notice. It is understood and agreed that, in the event this agreement is terminated by the City, the State shall in no way be obligated to maintain said landscaping.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. In the event of any controversy which may arise out of this agreement, the parties hereby agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17th Avenue, Mail Drop 616E, Room 222
Phoenix, AZ. 85007

City of Yuma
City Administrator
180 West 1st Street
Yuma, AZ. 85364

7. Neither party to this agreement agrees to indemnify the other party or hold harmless the other party from liability hereunder. There are no third-party beneficiaries. Neither the City nor the State assume any of the duties owed to the public by the other.

8. Attached hereto is the written determination of each party's legal council the the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF YUMA

STATE OF ARIZONA

Department of Transportation

By Marilyn R. Young
MARILYN R. YOUNG
Mayor

By Peter L. Eno
PETER L. ENO
Contract Administrator

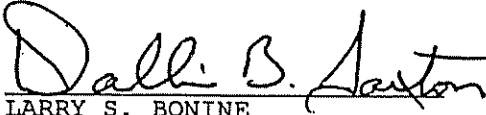
ATTEST

By Carrie Fassil, Deputy
CARRIE FASSIL
City Clerk

RESOLUTION

BE IT RESOLVED on this 1st day of July 1996, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement the City of Yuma for the purpose of defining responsibilities to construct landscaping improvements on SR-95 in the City.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contract Administrator for approval and execution.


for LARRY S. BONINE
Director

CERTIFICATION

I, Brigitta K. Stanz, do hereby certify that I am the duly appointed Deputy City Clerk of the City of Yuma, Arizona, and that the attached City Council regular meeting minutes of September 4, 1996, are a true and correct copy of the official minutes on file at the Office of the City Clerk, City Hall, Yuma, Arizona.

Brigitta K. Stanz

Brigitta K. Stanz, Deputy City Clerk

9-19-96

Date

APPROVAL OF THE YUMA CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and the CITY OF YUMA and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

DATED this 1st day of August, 1996.

Steven W. Moore
City Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

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GRANT WOODS
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT DETERMINATION

A.G. Contract No. KR96-1347-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 23rd day of September, 1996.

GRANT WOODS
Attorney General

A handwritten signature in black ink, appearing to read "James R. Redpath", is written over a horizontal line.

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:lsr
[1277]